

Senator Curtis S. Bramble proposes the following substitute bill:

LOCAL DISTRICT TAXING AUTHORITY

AMENDMENTS

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions relating to the taxing authority of certain local districts.

Highlighted Provisions:

This bill:

▶ prohibits certain local districts that do not have elected boards from levying and collecting a property tax unless:

- the revenue from the tax is already pledged for district obligations; and
- the tax is approved by district voters or by the county and each municipality

with territory included within the local district;

▶ amends provisions relating to a metropolitan water district board of trustees;

▶ prohibits, with certain exceptions, a metropolitan water district board of trustees from collecting a property tax;

▶ amends provisions relating to a water conservancy district board of trustees;

▶ prohibits, with certain exceptions, a water conservancy district board of trustees from collecting a property tax; and

▶ makes technical corrections.

Monies Appropriated in this Bill:



26 None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **17B-1-1001**, as enacted by Laws of Utah 2007, Chapter 329

32 **17B-2a-604**, as enacted by Laws of Utah 2007, Chapter 329

33 **17B-2a-1005**, as last amended by Laws of Utah 2008, Chapter 360

34 **17B-2a-1006**, as enacted by Laws of Utah 2007, Chapter 329

35 ENACTS:

36 **17B-2a-608**, Utah Code Annotated 1953

37 **17B-2a-1009**, Utah Code Annotated 1953



39 *Be it enacted by the Legislature of the state of Utah:*

40 Section 1. Section **17B-1-1001** is amended to read:

41 **17B-1-1001. Provisions applicable to property tax levy.**

42 (1) Each local district that levies and collects property taxes shall levy and collect them
43 according to the provisions of Title 59, Chapter 2, Property Tax Act.

44 (2) (a) As used in this Subsection (2), "elected board" means a local district board of
45 trustees all of whose members are elected to the board by district voters.

46 (b) Except as provided in Subsections (2)(c) and (d), a local district that does not have
47 an elected board may not levy or collect a property tax during any tax year beginning on or
48 after January 1, 2011.

49 (c) Notwithstanding Subsection (2)(b), a local district that does not have an elected
50 board may levy and collect a property tax during a tax year beginning on or after January 1,
51 2011:

52 (i) if and to the extent that revenue from the property tax was pledged before January 1,
53 2011, to pay for bonds or other obligations of the district; or

54 (ii) if the property tax levy has previously been approved by:

55 (A) district voters at an election held for that purpose; or

56 (B) the legislative body of:

57 (I) each municipality partially or completely included within the boundary of the
58 specified local district; and

59 (II) the county in which the specified local district is located, if the county has some or
60 all of its unincorporated area included within the boundary of the specified local district.

61 (d) Subsection (2)(b) does not apply to:

62 (i) Title 17B, Chapter 2a, Part 6, Metropolitan Water District Act;

63 (ii) Title 17B, Chapter 2a, Part 9, Service Area Act; or

64 (iii) Title 17B, Chapter 2a, Part 10, Water Conservancy District Act.

65 Section 2. Section **17B-2a-604** is amended to read:

66 **17B-2a-604. Metropolitan water district board of trustees.**

67 (1) Members of the board of trustees of a metropolitan water district shall be
68 [~~appointed as provided in this section:~~];

69 (a) elected in accordance with:

70 (i) the petition or resolution that initiated the process of creating the metropolitan water
71 district; and

72 (ii) Section 17B-1-306;

73 (b) appointed in accordance with Subsection (2); or

74 (c) elected under Subsection (3)(a).

75 (2) (a) This Subsection (2) shall apply to an appointed board of trustees of a
76 metropolitan water district.

77 [~~(2)~~] (b) If a district contains the area of a single municipality:

78 [~~(a)~~] (i) the legislative body of that municipality shall appoint each member of the
79 board of trustees; and

80 [~~(b)~~] (ii) one member shall be the officer with responsibility over the municipality's
81 water supply and distribution system, if the system is municipally owned.

82 [~~(3)~~] (c) If a district contains some or all of the retail water service area of more than
83 one municipality:

84 [~~(a)~~] (i) the legislative body of each municipality shall appoint the number of members
85 for that municipality as determined under Subsection [~~(3)(b)~~] (2)(c)(ii);

86 [~~(b)~~] (ii) subject to Subsection [~~(3)(c)~~] (2)(c)(iii), the number of members appointed by
87 each municipality shall be determined:

88 [(i)] (A) by agreement between the metropolitan water district and the municipalities,
89 subject to the maximum stated in Subsection 17B-1-302(2); or

90 [(ii)] (B) as provided in Chapter 1, Part 3, Board of Trustees; and

91 [(c)] (iii) at least one member shall be appointed by each municipality.

92 [~~(4) Each member of the board of trustees of a metropolitan water district shall be:~~

93 [~~(a) a registered voter;~~

94 [~~(b) a property taxpayer; and]~~

95 [~~(c) a resident of:]~~

96 [(i) the metropolitan water district; and]

97 [(ii) the retail water service area of the municipality whose legislative body appoints
98 the member.]

99 [(5)] (d) Each trustee shall be appointed without regard to partisan political affiliations
100 from among citizens of the highest integrity, attainment, competence, and standing in the
101 community.

102 (3) (a) Members of the board of trustees of a metropolitan water district shall be
103 elected in accordance with Section 17B-1-306, if, subject to Subsection (3)(b):

104 (i) three-fourths of all members of the board of trustees of the metropolitan water
105 district vote in favor of changing to an elected board; and

106 (ii) the legislative body of each municipality that appoints a member to the board of
107 trustees adopts a resolution approving the change to an elected board.

108 (b) A change to an elected board of trustees under Subsection (3)(a) may not shorten
109 the term of any member of the board of trustees serving at the time of the change.

110 (4) A member of the board of trustees of a metropolitan water district shall be:

111 (a) a registered voter;

112 (b) a property taxpayer; and

113 (c) a resident of:

114 (i) the metropolitan water district; and

115 (ii) the retail water service area of the municipality that:

116 (A) elects the member; or

117 (B) the member is appointed to represent.

118 [(6)] (5) (a) Except as provided in Subsection [(8)] (7), a member shall immediately

119 forfeit the member's seat on the board of trustees if [a] the member becomes elected or
120 appointed to office in or becomes an employee of the municipality whose legislative body
121 appointed the member[~~, the member shall immediately forfeit the office, and the member's~~
122 ~~position on the board] under Subsection (2).~~

123 (b) The position of the member described in Subsection (5)(a) is vacant until filled as
124 provided in Section 17B-1-304.

125 [~~(7)~~] (6) Except as provided in Subsection [(8)] (7), the term of office of each member
126 of the board of trustees is as provided in Section 17B-1-303.

127 [~~(8)~~] (7) Subsections (4), [~~(6), and (7)] (5)(a), and (6) do not apply to a member who is~~
128 a member under Subsection (2)(b)(ii).

129 Section 3. Section **17B-2a-608** is enacted to read:

130 **17B-2a-608. Limit on property tax authority -- Exceptions.**

131 (1) As used in this section, "elected official" means a metropolitan water district board
132 of trustee member who is elected to the board of trustees by metropolitan water district voters
133 at an election held for that purpose.

134 (2) (a) The board of trustees of a metropolitan water district may not collect a property
135 tax revenue in a tax year beginning on or after January 1, 2015, that would exceed the certified
136 tax rate under Section 59-2-924 unless:

137 (i) the members of the board of trustees are all elected officials;

138 (ii) the proposed tax levy has previously been approved by:

139 (A) metropolitan water district voters at an election held for that purpose; or

140 (B) the legislative body of each municipality that appoints a member to the board of
141 trustees under Section 17B-2a-204; or

142 (iii) subject to Subsection (2)(b), the board of trustees pledged before May 12, 2014,
143 revenue from a property tax to pay for bonds, other obligations, or the refunding of a bond or
144 other obligation of the metropolitan water district.

145 (b) The board of trustees of a metropolitan water district may levy and collect a
146 property tax for a pledge described in Subsection (2)(a)(iii) only to the extent that the revenue
147 from the property tax was pledged.

148 Section 4. Section **17B-2a-1005** is amended to read:

149 **17B-2a-1005. Water conservancy district board of trustees -- Selection of**

150 members -- Number -- Qualifications -- Terms -- Vacancies -- Surety bonds -- Authority.

151 (1) Members of the board of trustees for a water conservancy district shall be:

152 (a) elected in accordance with:

153 (i) the petition or resolution that initiated the process of creating the water conservancy

154 district; and

155 (ii) Section 17B-1-306;

156 (b) appointed in accordance with Subsection (2); or

157 (c) elected under Subsection (4)(a).

158 [~~(1)(a) Within~~] (2) (a) If the members of the board of trustees are appointed, within 45
159 days after [the creation of] the day on which a water conservancy district is created as provided
160 in Section 17B-1-215, the board of trustees shall be [selected] appointed as provided in this
161 Subsection [(1)] (2).

162 (b) For a district located entirely within the boundaries of a single county, the county
163 legislative body of that county shall appoint each trustee.

164 (c) (i) For a district located in more than a single county, the governor, with the consent
165 of the Senate, shall appoint each trustee from nominees submitted as provided in this
166 Subsection [~~(1)~~] (2)(c).

167 (ii) (A) Except as provided in Subsection [~~(1)~~] (2)(c)(ii)(B), in a division composed
168 solely of municipalities, the legislative body of each municipality within the division shall
169 submit two nominees per trustee.

170 (B) [~~Notwithstanding Subsection (1)(c)(ii)(A), the~~] The legislative body of a
171 municipality may submit fewer than two nominees per trustee if the legislative body certifies in
172 writing to the governor that the legislative body is unable, after reasonably diligent effort, to
173 identify two nominees who are willing and qualified to serve as trustee.

174 (iii) (A) Except as provided in Subsection [~~(1)~~] (2)(c)(iii)(B), in all other divisions, the
175 county legislative body of the county in which the division is located shall submit three
176 nominees per trustee.

177 (B) [~~Notwithstanding Subsection (1)(c)(iii)(A), the~~] The county legislative body may
178 submit fewer than three nominees per trustee if the county legislative body certifies in writing
179 to the governor that the county legislative body is unable, after reasonably diligent effort, to
180 identify three nominees who are willing and qualified to serve as trustee.

181 (iv) If a trustee represents a division located in more than one county, the county
182 legislative bodies of those counties shall collectively compile the list of three nominees.

183 (v) For purposes of this Subsection ~~[(1)]~~ (2)(c), a municipality that is located in more
184 than one county shall be considered to be located in only the county in which more of the
185 municipal area is located than in any other county.

186 (d) In districts where substantial water is allocated for irrigated agriculture, one trustee
187 appointed in that district shall be a person who owns irrigation rights and uses those rights as
188 part of that person's livelihood.

189 ~~[(2)(a) The board of trustees of a water conservancy district shall consist of:]~~

190 ~~[(i) except as provided in Subsection (2)(a)(ii), not more than 11 persons who are~~
191 ~~residents of the district; or]~~

192 ~~[(ii) if the district consists of five or more counties, not more than 21 persons who are~~
193 ~~residents of the district.]~~

194 ~~[(b)]~~ (3)(a) At least 90 days before expiration of [a] an appointed trustee's term, the
195 board shall give written notice of the upcoming vacancy and the date when the trustee's term
196 expires to the county legislative body in single county districts and to the nominating entities
197 and the governor in all other districts.

198 ~~[(c)]~~ (b) (i) Upon receipt of the notice of the expiration of [a] an appointed trustee's
199 term or notice of a vacancy in the office of an appointed trustee, the county or municipal
200 legislative body, as the case may be, shall nominate candidates to fill the unexpired term of
201 office pursuant to Subsection ~~[(1)]~~ (2).

202 (ii) If a trustee is to be appointed by the governor and the entity charged with
203 nominating candidates has not submitted the list of nominees within 90 days after service of
204 the notice, the governor shall make the appointment from qualified candidates without
205 consultation with the county or municipal legislative body.

206 (iii) If the governor fails to appoint, the incumbent shall continue to serve until a
207 successor is appointed and qualified.

208 (iv) Appointment by the governor vests in the appointee, upon qualification, the
209 authority to discharge the duties of trustee, subject only to the consent of the Senate.

210 ~~[(d)]~~ (c) Each trustee shall hold office during the term for which appointed and until a
211 successor is duly appointed and has qualified.

212 (4) (a) Members of the board of trustees of a water conservancy district shall be
213 elected, if, subject to Subsection (4)(b):

214 (i) two-thirds of all members of the board of trustees of the water conservancy district
215 vote in favor of changing to an elected board; and

216 (ii) the legislative body of each municipality or county that appoints a member to the
217 board of trustees adopts a resolution approving the change to an elected board.

218 (b) A change to an elected board of trustees under Subsection (4)(a) may not shorten
219 the term of any member of the board of trustees serving at the time of the change.

220 (5) (a) The board of trustees of a water conservancy district shall consist of:

221 (i) except as provided in Subsection (5)(a)(ii), not more than 11 persons who are
222 residents of the district; or

223 (ii) if the district consists of five or more counties, not more than 21 persons who are
224 residents of the district.

225 (6) If an elected trustee's office is vacated, the vacated office shall be filled in
226 accordance with Section 17B-1-303.

227 [~~3~~] (7) Each trustee shall furnish a corporate surety bond at the expense of the district,
228 conditioned for the faithful performance of duties as a trustee.

229 [~~4~~] (8) (a) The board of trustees of a water conservancy district may:

230 (i) make and enforce all reasonable rules and regulations for the management, control,
231 delivery, use, and distribution of water;

232 (ii) withhold the delivery of water with respect to which there is a default or
233 delinquency of payment;

234 (iii) provide for and declare a forfeiture of the right to the use of water upon the default
235 or failure to comply with an order, contract, or agreement for the purchase, lease, or use of
236 water, and resell, lease, or otherwise dispose of water with respect to which a forfeiture has
237 been declared;

238 (iv) allocate and reallocate the use of water to lands within the district;

239 (v) provide for and grant the right, upon terms, to transfer water from lands to which
240 water has been allocated to other lands within the district;

241 (vi) create a lien, as provided in this part, upon land to which the use of water is
242 transferred;

243 (vii) discharge a lien from land to which a lien has attached; and
 244 (viii) subject to Subsection [(4)] (8)(b), enter into a written contract for the sale, lease,
 245 or other disposition of the use of water.

246 (b) (i) A contract under Subsection [(4)] (8)(a)(viii) may provide for the use of water
 247 perpetually or for a specified term.

248 (ii) (A) If a contract under Subsection [(4)] (8)(a)(viii) makes water available to the
 249 purchasing party without regard to actual taking or use, the board may require that the
 250 purchasing party give security for the payment to be made under the contract, unless the
 251 contract requires the purchasing party to pay for certain specified annual minimums.

252 (B) The security requirement under Subsection [(4)] (8)(b)(ii)(A) in a contract with a
 253 public entity may be met by including in the contract a provision for the public entity's levy of a
 254 special assessment to make annual payments to the district.

255 Section 5. Section **17B-2a-1006** is amended to read:

256 **17B-2a-1006. Limits on water conservancy district property tax levy -- Additional**
 257 **levy.**

258 (1) Except as provided in Subsection (2), and subject to Subsection (3) and Section
 259 17B-2a-1009, the property tax levy of a water conservancy district for all purposes may not
 260 exceed:

261 (a) .0001 per dollar of taxable value of taxable property in the district, before the
 262 earliest of:

- 263 (i) the planning or design of works;
- 264 (ii) the acquisition of the site or right-of-way on which the works will be constructed;

265 or

266 (iii) the commencement of construction of the works; and

267 (b) .0002 per dollar of taxable value of taxable property in the district, after the earliest
 268 of the events listed in Subsection (1)(a).

269 (2) [~~Notwithstanding Subsection (1) and subject~~] Subject to Subsection (3) and Section
 270 17B-2a-1009:

271 (a) in a district that contains land located within the Lower Colorado River Basin, the
 272 levy after the earliest of the events listed in Subsection (1)(a) may be increased to a maximum
 273 of .001 per dollar of taxable value of taxable property in the district; and

274 (b) in a district to be served under a contract, water appropriation, water allotment, or
275 otherwise by water apportioned by the Colorado River Compact to the Upper Basin, the levy
276 after the earliest of the events listed in Subsection (1)(a) may be increased to a maximum of
277 .0004 per dollar of taxable value of taxable property.

278 (3) ~~[Notwithstanding the limits on the rate of property tax levies under Subsections (1)~~
279 ~~and (2), a] A water conservancy district may impose an additional property tax levy, not to~~
280 exceed .0001 per dollar of taxable value of taxable property in the district, if the additional levy
281 is necessary to provide adequate funds to pay maturing bonds or other debts of the district.

282 Section 6. Section **17B-2a-1009** is enacted to read:

283 **17B-2a-1009. Limit on property tax authority -- Exceptions.**

284 (1) As used in this section, "elected official" means a water conservancy district board
285 of trustee member who:

286 (a) is elected to the board of trustees by water conservancy district voters at an election
287 held for that purpose;

288 (b) holds, at the time of appointment to the board of trustees, an elected position with a
289 municipality, county, or local district that is partially or completely included within the
290 boundaries of the water conservancy district; or

291 (c) is appointed in accordance with Subsection 17B-1-306(4)(g) after running as the
292 only candidate in an election for a water conservancy district board of trustee.

293 (2) (a) The board of trustees of a water conservancy district may not collect a property
294 tax revenue in a tax year beginning on or after January 1, 2015, that would exceed the certified
295 tax rate under Section 59-2-924 unless:

296 (i) the members of the board of trustees are all elected officials;

297 (ii) the majority of the board of trustees are elected officials;

298 (iii) the proposed tax levy has previously been approved by:

299 (A) water conservancy district voters at an election held for that purpose; or

300 (B) for a district described in Subsection 17B-2a-1005(2)(b), the appointing authority;

301 or

302 (iv) subject to Subsection (2)(b), the board of trustees pledged before May 12, 2014,
303 revenue from a property tax to pay for bonds, other obligations, or the refunding of a bond or
304 other obligation of the water conservancy district.

305 (b) The board of trustees of a water conservancy district may levy and collect a
306 property tax for a pledge described in Subsection (2)(a)(iv) only to the extent that the revenue
307 from the property tax was pledged.